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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

13 CR 43 (LAP)

5 WILLIAM COSME,

6 Defendant.

7 -----x

8 New York, N.Y.

9 May 23, 2017

2:48 p.m.

10 Before:

11 HON. LORETTA A. PRESKA

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the

16 Southern District of New York

MARTIN BELL

17 NOAH SOLOWIEJCZYK

Assistant United States Attorneys

18 MARK DE MARCO

19 Attorney for Defendant

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1 (In open court; case called)

2 THE COURT: United States against William Cosme.

3 Is the government ready?

4 MR. BELL: We are, your Honor. Good afternoon.

5 Martin Bell and Noah Solowiejczyk for the government.

6 THE COURT: Good afternoon.

7 Is the defense ready?

8 MR. DE MARCO: Yes, your Honor.

9 Mark De Marco for Mr. Cosme.

10 THE COURT: Good afternoon sir.

11 Mr. De Marco, I am informed that you are refusing to
12 meet with probation. I'm sorry.

13 MR. DE MARCO: I'm okay with probation.

14 THE COURT: Forgive me.

15 Mr. Cosme, I'm informed that you are refusing to meet
16 with probation in order to give them information to be included
17 in the presentence report; is that right, sir?

18 THE DEFENDANT: No. You are misinformed.

19 THE COURT: Are you ready to meet with them, sir?

20 THE DEFENDANT: Yes. If I had my counsel of choice I
21 can set up an appointment.

22 THE COURT: But you don't. So the question is are you
23 willing to meet with them?

24 And the reason I asked you to come in here today is to
25 tell you that if you don't meet with probation it's only going

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1 to hurt you. They get information from you to include in the
2 presentence report to talk about the good things about you, to
3 talk about your background, things you've done in the past,
4 accomplishments you have, the outlook for the future, so as
5 to -- that probation gives the Court a recommendation. So if
6 you don't get to speak on your own behalf, probation doesn't
7 have that favorable information to put into the presentence
8 report. So if you don't talk with probation, it just hurts
9 you.

10 So, is there anything else you want to talk about? Is
11 there a question you have about meeting with probation?

12 THE DEFENDANT: Sure. There's a few things I'd like
13 to talk about. One thing is I guess Mr. De Marco didn't inform
14 you that he was terminated the day we saw the PSI investigator
15 and he also said that the interview would be adjourned at the
16 conference at MDC. He gave no warning of this meeting. He
17 didn't notify me and respond to the e-mails.

18 THE COURT: Then is then. Now is now. Mr. De Marco
19 remains your lawyer. You forfeited your right to proceed pro
20 se at the outset of the trial.

21 THE DEFENDANT: Your Honor, that would be incorrect.
22 If you check the record that particular day, respectfully, that
23 would be incorrect. And we did file a motion to that which you
24 did deny, which we will appeal, I suppose.

25 THE COURT: Well it was the fact that you forfeited

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1 your right to represent yourself at the outset of the trial.

2 THE DEFENDANT: The opening statement --

3 THE COURT: Accordingly, Mr. De Marco stepped in to
4 represent you. Nothing has changed in that regard.

5 THE DEFENDANT: Mr. De Marco --

6 THE COURT: The only thing we're here to discuss today
7 is meeting with probation. Do you have any question about
8 meeting with probation?

9 THE DEFENDANT: I think the only way I could meet with
10 them is through counsel of choice.

11 THE COURT: Well we've been around that block before.
12 Counsel of choice was retained counsel. Retained counsel is
13 not here. So as far as I know unless they've communicated with
14 you separately they're not going to be present.

15 THE DEFENDANT: Mr. De Marco was sent messages and he
16 hasn't shared that with your Honor respectfully about K&L Gates
17 entering a notice of appearance.

18 THE COURT: Well there is no notice of appearance now,
19 sir. Until there's a notice of appearance rumor and innuendo,
20 and gonna, gonna, gonna, maybe, coulda, shoulda is all
21 irrelevant. If there's a notice of appearance, fine. If not
22 Mr. De Marco continues as your counsel.

23 THE DEFENDANT: He's been terminated. I refuse to
24 have him as my counsel.

25 THE COURT: Well that's your prerogative. If you

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1 don't want to use Mr. De Marco, that's fine.

2 Here is what I'm going to do. I'm going to enter an
3 order telling probation that if you don't agree to meet with
4 them within the next ten days that probation should prepare the
5 presentence report and proceed with the disclosure of the
6 report.

7 Does anyone want to say anything else? Counsel?

8 MR. BELL: No, your Honor.

9 THE DEFENDANT: Your Honor, I have one more thing.

10 THE COURT: I'm sorry. Mr. De Marco, is there
11 anything you wanted to say.

12 MR. DE MARCO: No, thank you, your Honor.

13 THE COURT: Sir.

14 THE DEFENDANT: If K&L Gates comes into the case and
15 files the notice of appearance which they are in the process of
16 doing, as Mr. De Marco was notified of in writing and in e-mail
17 and in snail mail.

18 THE COURT: I don't care, Mr. Cosme. Until there's a
19 notice of appearance it is nothing.

20 THE DEFENDANT: Thank you. I didn't finish what I
21 was --

22 THE COURT: I know but you keep saying the same thing
23 over and over again and you've forgotten what I've just said to
24 you.

25 THE DEFENDANT: I didn't forget.

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1 THE COURT: Well then stop telling me that maybe
2 they're coming.

3 THE DEFENDANT: They're not maybe coming in. They're
4 coming in.

5 THE COURT: Well they better come in in the next ten
6 days or else probation is going to go forward.

7 THE DEFENDANT: On that note, there's one more thing,
8 if I may. All I'm saying on that note is they're going to need
9 more than 30 days to prepare for the -- to prep me for the
10 interview as well as respond to any additional motions and the
11 underlying illegal asset forfeiture.

12 THE COURT: I will look at whatever is filed within
13 the next ten days. But that's the order as of now.

14 THE DEFENDANT: Your Honor we also filed a motion in
15 regards to the final forfeiture order.

16 THE COURT: It's all for appeal now, sir.

17 THE DEFENDANT: That has not been responded to yet.
18 You haven't responded to the final forfeiture -- we didn't see
19 that on the docket.

20 MR. DE MARCO: It was denied on May 16. I put it in
21 the mail box in the MDC yesterday.

22 THE DEFENDANT: Your Honor, I received nothing from
23 this counsel.

24 THE COURT: All right.

25 THE DEFENDANT: That's ineffective.

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1 THE COURT: Counsel served -- a lag of a day or two
2 when counsel hand delivered the order to you at the MDC and put
3 it in the mail box is not ineffective assistance.

4 THE DEFENDANT: Your Honor.

5 THE COURT: Thank you, ladies and gentlemen. Thank
6 you, Mr. Marshal.

7 Good afternoon, counsel.

8 (Adjourned)